

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:00-CR-133-2-F
No. 7:12-CV-122-F

JEROME PIGFORD,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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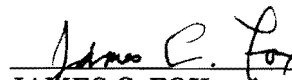
ORDER

Having conducted an examination of Pigford's motion [DE-58] pursuant to Rule 4(b) of the Rules Governing § 2255 Proceedings, and it appearing that dismissal is not warranted at this time, the United States Attorney is DIRECTED to file an Answer pursuant to Rule 5, Rules Governing § 2255 Proceedings, or to make such other response as appropriate to the above-captioned § 2255 Motion to Vacate, Set Aside or Correct Sentence, within **forty (40)** days of the filing of this order.

The court notes that the instant motion was filed by counsel who initially was appointed pursuant to Local Rule 44.1(b), (E.D.N.C.), *see* [DE-57], because Pigford sought application for relief under 18 U.S.C. § 3582(c) [DE-55] of the 2010 USSG 18:1 retroactive crack amendment. His appointed counsel has raised additional challenges to his sentence by motion [DE-58] pursuant to 28 U.S.C. § 2255 that invoke the ruling in *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011), in an effort to remove the career offender impediment to relief under the crack amendment, and to apply the Fair Sentencing Act of 2010.

The Government's response, therefore, should address the trifecta of *Simmons*, the 18:1 retroactive crack amendment, and applicability of the Fair Sentencing Act of 2010.

SO ORDERED. This, the 9th day of May, 2012.



JAMES C. FOX
Senior United States District Judge